FARAD CONTINUATION SHEET NO.:

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
LETTERS PATENT APPEAL (ST) No.18178 of 2005
ALONG WITH CIVIL APPLICATION

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr K.R.Kore, for the appellants.

CORAM: V.G.PALSHIKAR &
D.B.BHOSALE,JJ.
DATED: 24.10.2005

P.C.:

Heard the learned counsel for the appellants.

This appeal under clause 15 of the Letters Patent Appeal of this High Court of Judicature at Bombay impugns an order passed on 7.6.2005 by a learned Single Judge of this Court in an Appeal from order No.752 of 1998.

The Appeal from order was filed under the provisions of the Civil Procedure Code (Order 43). The learned Single Judge has decided that appeal which order is impugned in this appeal.

Section 100-A of the Civil Procedure Code reads as under :

"Notwithstanding anything contained in any Letters Patent for any High Court or in

any instrument having the force of law or in any other law for the time being in force, where any appeal from an original or appellate decree or order is heard and decided by a Single Judge of a High Court, no further appeal shall lie from the judgment and decree of such Single Judge."

The order impugned was passed in an appeal from an original order passed by the trial Court.Therefore, the appeal is squarely covered by the provisions of Section 100-A of the Civil Procedure Code and hence is not tenable. Reliance was sought to be placed on a Judgment of the Supreme Court delivered in the year 1981 to contend that the amendment brought into existence in the year 2002 be ignored and the appeal be held maintainable. We are unable to accept this contention. Consequently, the Letters Patent Appeal is dismissed as not tenable.

Certified copy expedited.

The civil application, if any, accordingly disposed of.

(D.B.BHOSALE,J.) (V.G.PALSHIKAR,J.)